

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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CHAVA HERMAN,	:	
on behalf of plaintiff and a class,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Case No. 13-cv-4831(CS)
	:	
COLLECTO INC., and	:	
US ASSET MANAGEMENT INC.,	:	
	:	
Defendants.	:	
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PLAINTIFF’S MOTION FOR CLASS CERTIFICATION¹

Plaintiff Chava Herman respectfully requests that this Court enter an order determining that this Fair Debt Collection Practices Act ("FDCPA") action may proceed as a class action against defendants Collecto, Inc. ("Collecto") and US Asset Management, Inc. ("USAM") Plaintiff seeks to certify a class defined as

(a) all individuals in New York (b) to whom Collecto, Inc., sent a letter referring to “other accounts” (c) which “other accounts” are in an amount other than \$0.00 (d) where the letter was sent on or after July 11, 2012 and on or before July 31, 2013.

The defendants have represented that 9003 accounts satisfy this definition. (Appendix 1, Defendants’ Responses to Plaintiff’s Second Discovery Requests) Plaintiff further requests that Kleinman LLC and Edelman, Combs, Latturner & Goodwin, LLC be appointed as class counsel.

In support of this motion, plaintiff states:

NATURE OF THE CASE

¹Exhibits referenced are attached to Memorandum in Support of Plaintiff’s Motion for Class Certification.

1. Defendants Collecto and USAM have been attempting to collect from plaintiff an alleged telephone bill owed to AT&T Mobility incurred for personal, family or household purposes and not for business purposes.

2. On or about January 24, 2013, defendant Collecto, Inc. sent plaintiff the letter attached as Appendix 2 (Exhibit A to the complaint). The January 24, 2013 letter was sent by Collecto, Inc., on behalf of US Asset Management, Inc.

3. Appendix 2 is the first letter plaintiff received from defendants regarding the debt described therein. Appendix 2 is the first letter defendants sent plaintiff regarding the debt described therein. (Appendix 3, Burns Dep. Tr. pp. 29-30, lines 17-16).

4. Plaintiff alleges that Appendix 2 (the January 24, 2013 letter from Collecto) violates the FDCPA. Specifically, plaintiff alleges that the January 24, 2013 collection letter violates 15 U.S.C. §§1692g, 1692e, 1692e(2) and 1692e(10) because it claims a “total due” of \$3,185.59, of which \$1,360.25 is described as “other accounts,” referring to one or more accounts other than the one that is identified.

5. As a result the “total due” does not represent the total due on the one debt that is identified or on any other identifiable debt. In addition, it is unclear who the current creditor or owner of the debt is with regard to the “other accounts.” The information concerning the owner of the identified account pertains solely to the identified “account” in the singular.

6. Plaintiff contends that this results in non-disclosure of the amount of the debt and current creditor for the “other accounts” and violates 15 U.S.C. §§1692g, 1692e, 1692e(2) and 1692e(10).

CLASS CERTIFICATION REQUIREMENTS

6. All requirements of Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been met.

7. The class of 9003 is so numerous that joinder of all members is impracticable. Approximately 40 class members are required for certification. *Consolidated Rail Corp. v. Town of Hyde Park*, 47 F.3d 473, 483 (2nd Cir. 1995). Defendants represent that during the class period described in a letter was sent on 9003 accounts in which the field entitled “other accounts” was populated with an amount other than zero.

8. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common questions are whether the use of "other accounts" violates the FDCPA.

9. Plaintiff’s claims are typical of the claims of the class members. All are based on the same factual and legal theories.

10. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases (Appendix 4).

11. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

12. In further support of this motion, plaintiff submits the accompanying memorandum of law.

WHEREFORE, plaintiff respectfully requests that this Court enter an order determining that this action may proceed as a class action.

Respectfully submitted,

s/ Tiffany N. Hardy
Tiffany N. Hardy

Tiffany N. Hardy
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CERTIFICATE OF SERVICE

I, Tiffany N. Hardy, hereby certify that on December 8, 2014, a true and accurate copy of the foregoing document was filed via the Court's CM/ECF system. I further certify that the foregoing document will be sent via U.S. Mail to:

Jonathan D. Elliot
Zeldes, Needle & Cooper
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s/ Tiffany N. Hardy
Tiffany N. Hardy

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